IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/01/2004

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.5355 of 1999

J.Kaliyaperumal .. Petitioner

-Vs-

The Neyveli Lignite Corporation
rep. by its Chairman
Neyveli Town
Cuddalore District. .. Respondent

PRAYER: Petition under Article 226 of the Constitution of India
praying to issue a writ of Mandamus as stated within.

For Petitioner : Mr.Arunachalam

For Respondents : Mr.N.Nithyanandam

:ORDER

The petitioner seeks a writ of Mandamus to direct the respondent herein to appoint the petitioner's son, viz., Elancheian, under the scheme framed for appointment of the wards of the workmen.

2. According to Mr.Arunachalam, learned counsel for the petitioner, the respondent/Corporation acquired land and building owned by the petitioner in the year 1972 for the purpose of lignite mining, and based on a scheme brought in by the respondent/Corporation, viz., Land Displaced Persons Employment Scheme, the petitioner by his representations dated 30.12.1995, 8.3.1996, 27.3.1997, 23.4.1998 and 3.7.1998 requested for appointment of his son in the respondent/Corporation. As no orders were passed on the said representations, the petitioner has preferred this writ petition.

3. It is not in dispute that the Land Displaced Persons Employment Scheme relied upon by the learned counsel for the petitioner itself came into effect in the year 1980 with a specific provision that the said scheme is applicable to persons whose lands were acquired from the year 1977. But, in the instant case, concededly, the land and building owned by the petitioner were acquired by the respondent/ Corporation as early as in the year 1972. In my considered opinion, the reliance placed on the said scheme by the

petitioner is, therefore, misconceived.

4. In any event, as to whether such land owners have a fundamental right to claim such employment was considered by the Apex Court in the case of Butu Prasad Kumbhar vs. Steel Authority of India Ltd., 1995 Supp. (2) SCC 225. The petitioners in that case were either members of the families or descendants of the owners from whom the lands were acquired for setting up Rourkela Steel plant. It was their case that the acquisition had resulted in loss of source of livelihood and therefore with a view to secure their right to life under Article 21, the industrial undertaking was under a legal obligation to provide them with employment. Rejecting that contention, the Court observed,

"Needless to say that petitioners or their ancestors were not deprived of their land without following the procedure established in law. Their land was taken under the Land Acquisition Act. They were paid compensation for it. Therefore, the challenge raised on violation of Article 21 is devoid of any merit. Even otherwise the obligation of the State to ensure that no citizen is deprived of his livelihood does not extend to provide employment to every member of each family displaced in consequence of acquisition of land. ..... The Government has paid market value for the land acquired. ..... The claim of the petitioners that unless each adult member is given employment or the future generation is ensured of a preferential claim it would be arbitrary or contrary with the constitutional guarantee is indeed stretching Article 21 without any regard to its scope and ambit as explained by this Court. Truly speaking it is just the other way. Acceptance of such a demand would be against Article 14."

5. Following the said proposition laid down by the Apex Court in Butu Prasad Kumbhar vs. Steel Authority of India Ltd., referred supra, a Division Bench of this Court, to which I am a party, in CHAIRMAN, TAMIL NADU ELECTRICITY BOARD, CHENNAI Vs. ARULNATHAN reported in (2003) 3 MLJ 726, held that it is for the Management to take appropriate decision in the matter, of course, subject to the availability of vacancies, nature of job, fitness of the applicant for performing the job, etc., but not as a matter of right, as claimed by the petitioner.

6. Under such circumstances, suffice it to direct the respondent to pass appropriate order on the representations of the petitioner dated 30.12.1995, 8.3.1996, 27.3.1997, 23.4.1998 and 3.7.1998, on merits, within three months from the date of receipt of copy of this order. However, it is made clear that the above direction cannot be construed as a matter of right conferred on the petitioner as claimed.

This writ petition is disposed of accordingly. No costs.

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